

State Notes

TOPICS OF LEGISLATIVE INTEREST

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Driver Responsibility Fees: A Five-Year Checkup By Elliot Wild, Intern

Background

In August 2003, Michigan passed Public Act 165 to establish "driver responsibility fees", in addition to existing court costs and fees associated with infractions. The Act created two types of financial penalties for driving violations. One type of fee is levied on those who accrue seven or more points on their license within two years, and the other type is given for certain one-time moving violations (e.g., negligent homicide, driving under the influence, or driving without a license).¹ It was thought that the legislation would serve the dual purposes of reducing reckless driving while raising funds to support the State budget. Since enacted, the State has collected over \$380.2 million from driver responsibility fees. Critics, however, have described the policy as punishing drivers twice, as well as imposing a heavy burden upon low-income violators.

Initial Expectations

Before the enactment of the fees, budget analysts estimated approximately \$124.7 million of revenue per year in assessed penalties. This was based on results of a similar program in New Jersey and previous driving records in Michigan. The New Jersey program reported a 60.0% collection rate. Based on these figures, analysts estimated that Michigan would collect revenue of \$74.8 million per year from the program. However, Michigan has experienced a collection rate of only 48.5% of the amount assessed to date.

Despite the lower-than-expected collection rate, the program has created far more revenue than projected due to a surprising increase in traffic violations.

A Rise in Violations, Suspended Licenses

Despite legislators' goal of decreasing violations, Michigan motorists have been committing serious violations at an increasing rate since 2004. (See [Appendix A](#) for more details.)

Many violations have seen large increases over the last four years, but one of the most notable is the rise in "driving with a suspended license". In 2005, there were 95,323 offenses of driving with a suspended license, but by 2007 that number had risen to 137,673: an increase of 44.4% in just two years. This rise is likely due in part to the licenses suspended for failure to pay assessed driver responsibility fees. When a violator fails to pay the first installment of the fee within 60 days, his or her license is suspended by the Secretary of State. Renewing a suspended license requires payment of not only the first installment, but also a \$125 license reinstatement fee. Evidently, the cost of the driver responsibility fee in addition to the reinstatement fee has increased the number of drivers who take their chances driving without a valid license.

¹ Public Act 165 of 2003 also imposed a \$150 fee on drivers cited for having no proof of insurance, even if they were insured but did not have their paperwork with them. In 2004, the State amended the program to allow such drivers to escape the responsibility fee if they provided the Secretary of State with proof of insurance before their court appearance date. This legislation also increased the fee to \$200 for drivers who did not provide proof of insurance.



Since the program was installed, overall assessed violations have risen annually (Table 1). Also, while the program has experienced an overall collection rate of just 48.5%, that number is rising and seems headed toward leveling off around 53.5%. While this is an improvement, it is still below the collection rate originally expected. For example, if the State had collected at the expected rate of 60.0% in 2007, the program would have generated \$135.6 million in revenue, an additional \$14.7 million over the amount collected.

Table 1

Driver Responsibility Fee Collection and Assessment Trends				
Calendar Year	Number Assessed	Assessed Amount	Collections	
			Dollars	Percent of Assessment
2004 Total Assessments	263,525	\$92,255,850	\$21,129,270	22.9%
2005 Total Assessments	484,775	\$168,492,600	\$64,655,317	38.4%
2006 Total Assessments	546,288	\$203,655,550	\$108,951,540	53.5%
2007 Total Assessments	578,207	\$225,929,500	\$120,878,236	53.5%
2008 Assessments To Date	247,587	\$92,813,300	\$64,578,340	Not Completed
Total Assessments To Date	2,120,382	\$783,146,800	\$380,192,703	48.5%

Source: Michigan Department of State

Revenue

The revenue from driver responsibility fees is almost entirely deposited into the General Fund. Revenue from the fees also goes toward fire prevention programs through a new fund.

Public Act 165 of 2003 created the Fire Protection Fund (FPF), which disburses grants to local fire prevention programs. In each fiscal year, the FPF receives any driver responsibility fee revenue collected in excess of \$65.0 million and up to \$68.5 million, as well as any revenue from \$100.0 million to \$105.0 million, for a maximum possible deposit of \$8.5 million per year. All other revenue derived from the fees is deposited into the General Fund. Total collected revenue in 2006 reached nearly \$109.0 million, followed by approximately \$120.9 in 2007. Therefore, if current trends persist, the FPF should continue to receive the maximum \$8.5 million annually.

The Fees in Detail

There are two types of fees: point-related fees and fees for specific serious infractions. Both types are imposed twice; thus, a \$500 fee will result in \$1,000 over two years. The fees are described below.

- If a driver accrues seven or more points, a fee of \$100 will be levied, with an additional \$50 for each additional point. Points remain on a driver license for two years, and fees are levied based on current points on a driver's record. Therefore, any accumulation of seven or more points will result in at least two fees.
- A fee of \$150, \$200, \$500, or \$1,000 for specific infractions is imposed two years in a row.
- A \$150 fee is given for driving with an expired license.
- The \$200 fee is imposed when an individual is driving while uninsured.

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- A \$500 fee involves more serious infractions, such as driving while impaired by alcohol or a controlled substance.
- The \$1,000 fee is the highest allotted, and is imposed for violations such as operating while intoxicated, hit-and-run violations, fleeing an officer, or seriously wounding or killing someone through negligent or impaired driving.

What Other States Have Done

Michigan is not alone in its driver responsibility program. Several other states have conducted programs similar in structure, with some variation in fee amounts and the number of times fees are assessed.

New York, Texas, and Virginia all have very similar two-pronged programs, based on the New Jersey model. The Texas program is the toughest on crime, with drunk driving (DUI) fees reaching as high as \$6,000 spread over three years ([Table 2](#)). Michigan and New York have the lowest fees of these programs for both serious infractions and excessive points. New York has relatively low fee amounts, and Michigan has the only program that levies fees twice instead of three times. Likewise, Michigan and New York both have points counted for a shorter time period, resulting in fewer fee assessments ([Table 3](#)).

The Virginia program was repealed in February 2008, only one year after enactment. The fact that fees could be administered legally only to in-state residents produced a strong negative reaction, leading to more than 100,000 Virginians signing an online petition. The Virginia General Assembly repealed the law, and fully rebated all fees assessed to violators. In addition, licenses that had been suspended for failure to pay fees were automatically reinstated.

Table 2

Fees Assessed for Serious Driving Violations: Selected States			
	DUI Fee	Payment Repeated for	Cumulative Owed
Michigan	\$1,000	2 years	\$2,000
New Jersey	\$1,000	3 years	\$3,000
New York	\$250	3 years	\$750
Texas	\$1,000-\$2,000	3 years	3,000-\$6,000
Virginia (repealed)	\$750	3 years	\$2,250

Source: Michigan Department of State

Table 3

Fees for Accruing Excessive Points: Selected States			
	Reaching a Points Threshold	Each Additional Point	Points Can Count For
Michigan	\$100	\$50	24 months
New Jersey	\$150	\$25	36 months
New York	\$100	\$75	18 months
Texas	\$100	\$25	36 months
Virginia (repealed)	\$100	\$75	36 months

Source: Michigan Department of State



Criticisms of the Program

While Michigan's program may be less harsh than that of several other states, there has been criticism of this State's program for several reasons. Opponents claim that the fee for driving without insurance punishes those who can least afford it, and can be a crushing blow to a low-income family. Critics also point to the fines and jail time already imposed on those who commit serious traffic crimes, and feel that the responsibility fees are punishing violators twice for the same crime. A petition to remove the fees circulated on the internet but, unlike in Virginia, the Michigan petition apparently has only 6,200 names.

There have been several bills proposed to reduce the amount of the fees, or to repeal the driver responsibility fee program altogether. For example, bills introduced during the 2007-2008 session include the following:

- House Bill 5884 would phase out the program over a five-year period.
- House Bill 5885 would exclude drivers who are 62 years of age or older.
- House Bill 4665 proposes to reduce fees and have them assessed only once.
- Senate Bill 638 and House Bill 4006 proposed to eliminate the program on October 1, 2007.

Despite strong criticism of the program, none of the legislation to change or eliminate the fees has gained enough traction to pass in either house. Even though many people are unhappy with the way the fees work, the program has brought in a large amount of revenue for the State's General Fund in a time of great budget difficulties. Given Michigan's continuing needs and the challenge of cutting more than \$120.0 million out of the annual budget, opponents of the program likely would have to find a replacement source of revenue if they desire to eliminate the driver responsibility fee program.

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Appendix A

Driver Responsibility Assessed Offenses by Year							
Offense Code Description	Fee	2004^{a)}	2005	2006	2007	Total	2005-2007 % Change
Seven or More Points	\$250	7,668	40,939	41,755	36,998	127,360	-9.63%
Operating While Intoxicated (1025)	\$1,000	20,327	36,865	41,629	44,594	143,415	20.97%
Operating While Intoxicated or While Impaired Causing Death (1030)	\$1,000	17	61	111	110	299	80.33%
Operated While Intoxicated or While Impaired By Liquor Causing Serious Injury (1040)	\$1,000	69	165	244	271	749	64.24%
Operating With Presence of Drugs (OWPD) (1105)	\$500	442	889	1,034	1,134	3,499	27.56%
Operated While Intoxicated or While Impaired By Controlled Substance Causing Death (1120)	\$1,000	3	12	17	16	48	33.33%
Operated While Intoxicated or While Impaired By Controlled Substance Causing Serious Injury (1130)	\$1,000	8	12	15	14	49	16.67%
CDL Manufacture/Distribute a Control Substance (1140)	\$1,000			1	1	2	N/A
Child Endangerment (1150)	\$500	379	633	746	815	2,573	28.75%
Operating While Impaired By Liquor (1200)	\$500	29,110	51,520	58,071	62,409	201,110	21.14%
Operated While Impaired By Controlled Substance (1210)	\$500	307	603	886	1,077	2,873	78.61%
Combined OWI and Controlled Substance (1220)	\$500	19	53	59	52	183	-1.89%
Operated Commercial Motor Vehicle with BAC .04 .07 (1230)	\$1,000	9	13	15	21	58	61.54%
Person Under 21 With BAC (1240)	\$500	1,353	2,395	2,574	2,698	9,020	12.65%
Manslaughter (1400)	\$1,000	6	21	33	34	94	61.90%
A fatality through negligent or criminal operation of CMV (1405)	\$1,000				1	1	N/A
Negligent Homicide (1410)	\$1,000	28	89	148	168	433	88.76%
Murder/Auto Used (1420)	\$1,000		5	22	23	50	360.00%
Felony/Auto Used (1430)	\$1,000	602	922	894	928	3,346	0.65%
Felony With Auto Used (1440)	\$1,000	55	124	152	129	460	4.03%
Felonious Driving (1450)	\$1,000	14	37	63	74	188	100.00%
Unlawful Driving Away Auto (1500)	\$1,000	771	1,496	1,724	1,745	5,736	16.64%
Failed to Stop or Identify After P.I. Accident Causing Serious Impairment of a Body Function (1600)	\$1,000	20	50	73	73	216	46.00%
Failure to Stop or Identify After P.I. Accident Causing Death (1605)	\$1,000	3	6	13	11	33	83.33%

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Offense Code Description	Fee	2004 ^{a)}	2005	2006	2007	Total	2005-2007 % Change
Failed to Stop After P.I. Accident (1610)	\$1,000	271	479	505	556	1,811	16.08%
Failed to Stop or Identify After P.D. Accident (1630)	\$1,000	2,327	4,080	4,656	4,981	16,044	22.08%
Fleeing and Eluding Officer 1st Degree – Causing Death (1706)	\$1,000	6	14	18	13	51	-7.14%
Fleeing and Eluding Officer 2nd Degree – Causing Serious Injury (1707)	\$1,000	32	67	98	126	323	88.06%
Fleeing and Eluding Officer 3rd Degree (1708)	\$1,000	799	1,474	1,759	1,913	5,945	29.78%
Fleeing and Eluding Officer 4th Degree (1709)	\$1,000	611	1,145	1,464	1,532	4,752	33.80%
Reckless Driving (1800)	\$500	1,385	2,712	3,558	4,093	11,748	50.92%
Failed to use Due Care and Caution with Construction Worker (1801)	\$1,000			4	2	6	N/A
Failure to Yield For an Emergency Responder Causing Injury (1807)	\$1,000		1	3	5	9	400.00%
Drove While Unlicensed or License Not Valid (3010)	\$150	11,549	20,758	22,941	24,262	79,510	16.88%
Fail to Obtain Group Designator (3020)	\$150	1,455	2,727	1,670	546	6,398	-79.98%
No Proof of Insurance (3100)	\$200	115,092	182,767	192,390	202,183	692,432	10.62%
No Insurance (3106)	\$200	8,020	19,190	25,758	24,301	77,269	26.63%
No Insurance Under The Insurance Code (3108)	\$500		2,247	4,745	5,496	12,488	144.59%
Drove While License Suspended/ Revoked/Denied (DWLS) (3200)	\$500	52,296	95,323	120,487	137,673	405,779	44.43%
Drove While License Expired (3220)	\$150	8,449	14,833	15,882	17,050	56,214	14.95%
Drove Commercial Motor Vehicle While Disqualified (3230)	\$500	6	9	8	4	27	-55.56%
DWLS Causing Death (3235)	\$500	5	13	22	27	67	107.69%
DWLS Causing Serious Injury (3245)	\$500	9	23	41	47	120	104.35%
Snowmobile – Felony/ Snowmobile Used (7300)	\$1,000	3	3			6	-100.00%
ORV – Operated Under the Influence of Liquor (8000)	\$1,000				1	1	N/A
Grand Totals		263,525	484,775	546,288	578,207	1,872,795	19.27%

^{a)} Assessments in 2004 are lower because it was the first year of the program and fees are assessed for two years.

Source: Michigan Department of State